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THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Report of the sessional working group on the administration of justice and the question of compensation

Chairman-Rapporteur: Mr. Louis Joinet

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Introduction

1. At its 2nd meeting, on 1 August 1995, the Sub-Commission decided, without a vote, to establish a sessional working group on the administration of justice and the question of compensation. The existing regional groups within the Sub-Commission nominated the following experts as members of the working group, and they were duly appointed on 1 August 1995: Mr. Stanislav Chernichenko (Eastern Europe), Ms. Clemencia Forero Ucros (Latin America), Ms. Lucy Gwanmesia (Africa), Mr. Louis Joinet (Western European and other States) and Mr. Zhong Shukong (Asia).

2. The working group held three meetings, on 2, 9 and 10 August 1995.

3. A representative of the Centre for Human Rights opened the session of the working group on behalf of the High Commissioner for Human Rights and the Assistant Secretary-General for Human Rights.

4. At the proposal of Mr. Chernichenko, the working group elected Mr. Louis Joinet as Chairman-Rapporteur for its 1995 session.

5. The following members of the Sub-Commission not members of the working group also took part in the discussion: Mr. Osman El-Hajjé (1st meeting); Mr. El-Hadji Guissé (1st and 2nd meetings).

6. At the invitation of the working group, Mr. Theo van Boven, former Special Rapporteur of the Sub-Commission on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights, also participated in the discussion on the agenda item relating to basic principles and guarantees concerning the right to restitution and compensation.

7. Statements were made by representatives of the following non-governmental organizations in consultative status with the Economic and Social Council: Amnesty International (1st meeting), International Commission of Jurists (1st meeting), Latin American Federation of Associations of Relatives of Disappeared Detainees (1st meeting), International Association against Torture (2nd meeting).

8. The working group had before it the following documents relating to its provisional agenda:

> Reports of the Secretary-General prepared pursuant to Sub-Commission resolutions 1993/29 and 1994/33 (E/CN.4/Sub.2/1994/7 and Add.1, and E/CN.4/Sub.2/1995/17 and Add.1 and 2);
>
> Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms: final report submitted by Mr. Theo van Boven, Special Rapporteur (E/CN.4/Sub.2/1993/8);
>
> Report of the Secretary-General on capital punishment and implementation of safeguards guaranteeing the protection of the rights of those facing the death penalty (E/1995/78 and Add.1 and Corr.1);

Report of the Secretary-General on the expert group meeting on children and juveniles in detention: application of human rights standards (E/CN.4/1995/100);

Note by the Secretary-General on the situation of children deprived of their liberty (E/CN.4/Sub.2/1995/30 and Add.1);

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36);

Report of the meeting of experts on rights not subject to derogation during states of emergency and exceptional circumstances (E/CN.4/Sub.2/1995/20, annex I);

Report of the Working Group on Detention on its 1994 session (E/CN.4/Sub.2/1994/22);

Working paper prepared by Mr. Louis Joinet on follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance (E/CN.4/Sub.2/1995/WG.1/CRP.1);

Note by the Secretariat concerning the handling of capital punishment communications by United Nations human rights treaty bodies (E/CN.4/Sub.2/1995/WG.1/CRP.2).

Adoption of the agenda

9. At its 1st meeting, the working group considered the provisional agenda contained in paragraph 56 of document E/CN.4/Sub.2/1994/22. At the suggestion of the Chairman, based on informal consultations with other members of the working group, the working group decided to adopt and consider the following agenda:

1. Basic principles and guidelines concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms:

   (a) General principles;

   (b) Forms of reparation;

   (c) Procedures and mechanisms.

2. Follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance.

3. Habeas corpus as a non-derogable right and as one of the requirements for the right to a fair trail.

4. Issues related to the deprivation of the right to life, with special reference to:

(a) Imposition of the death penalty on persons of less than 18 years of age and on the mentally and physically disabled;

(b) Questions relating to summary, arbitrary and extrajudicial executions.

5. Juvenile justice

6. Matters arising from the 1994 report of the working group.

7. Provisional agenda for the next session.

8. Adoption of the report of the working group to the Sub-Commission.

I. BASIC PRINCIPLES AND GUIDELINES CONCERNING THE RIGHT TO RESTITUTION, COMPENSATION AND REHABILITATION FOR VICTIMS OF GROSS VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: (a) GENERAL PRINCIPLES; (b) FORMS OF REPARATION; (c) PROCEDURES AND MECHANISMS

10. In response to the decision made by the Sub-Commission in paragraph 1 of its resolution 1994/33 to continue the consideration of the proposed basic principles and guidelines at its forty-seventh session with a view to making substantial progress in the matter, the working group discussed the principles and guidelines proposed by the former Special Rapporteur, Mr. Theo van Boven, in his study on the subject (E/CN.4/Sub.2/1993/8, chap. IX).

11. In his opening statement, the representative of the Centre for Human Rights, said that at its previous session the working group had taken a further step forward by considering the basic principles and guidelines concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms. The proposed principles were submitted for consideration at the current session by their author, Mr. Theo van Boven.

12. Mr. van Boven said that at its previous session, in 1994, the working group had considered the first seven general principles of the proposed basic principles and guidelines. In his view, substantive progress had been made during that preliminary consideration of the proposed basic principles and guidelines. He proposed that consideration of them be continued, starting with the first reading of articles 8 to 11 concerning the forms of reparation. He drew the attention of the group to comments received from States and intergovernmental and non-governmental organizations contained in relevant reports of the Secretary-General (E/CN.4/Sub.2/1994/7 and Add.1 and E/CN.4/Sub.2/1995/17 and Add.1 and 2).

13. Mr. van Boven also pointed out that the concept of "reparation" was general in nature and included the following terms: "restitution", "compensation", "rehabilitation", "satisfaction" and "guarantees of

non-repetition". Concerning the notion of "restitution" embodied in draft article 8, he stated that in many cases restitution was not feasible, and it was therefore necessary to resort to other forms of reparation such as compensation, which should be provided for any economically assessable damage resulting from human rights violations. Another important form of reparation was rehabilitation, which, in accordance with draft article 10, should include legal, medical, psychological and other care and services. He emphasized that reparation should also cover such important forms as satisfaction and guarantees of non-repetition. They should ensure that human rights violations should not occur again.

14. In his view, issues relating to reparation should not be understood exclusively in financial terms, which represented only one form of reparation. As had emerged during his meetings with victims of violations of human rights, the victims were particularly interested in restoration of their rights and dignity, in acknowledgment that violations had been committed and in revelation of the truth. It also should be acknowledged that financial means were often not available to provide compensation.

15. Ms. Forero Ucros commented that many elements contained in the basic principles and guidelines had been accepted by the Inter-American Court of Human Rights, the voluntary jurisdiction of which has been accepted by 13 or 14 States. The Inter-American Court of Human Rights had made decisions on reparation based on such elements as physical or mental harm and lost opportunities in cases of enforced disappearance. The Inter-American Commission on Human Rights has also supported those principles. Within the framework of the American Convention on Human Rights, Colombia, like some other States, had created a national commission to investigate human rights violations, in particular with respect to enforced and involuntary disappearances. In the case of events that had taken place in the town of Trujillo, compensation for the victims had been recommended. She said that it was important to point out that the draft principles, and in particular, draft principle 9 had been accepted by the Inter-American Court of and Commission on Human Rights and that some States parties to the American Convention on Human Rights had used them innovatively to pay compensation to victims or their families without procedural delay, taking into account recommendations made by competent intergovernmental organizations. In her view, the link between national courts and mechanisms for reparation and international courts should be considered. An international mechanism should be invoked only when the domestic remedies had been exhausted.

16. On the subject of the proposed article 8, Mr. Guissé was in favour of introducing the concepts of rehabilitation (preferable to that of restitution, applicable to physical property) and rectification (applicable in the event of violations in writing such a libel by the print media). With regard to proposed article 10, he considered that the term "réhabilitation" was more appropriate in French-language legislation than "réadaptation". He supported the proposal of the Latin American Federation of Associations of Relatives of Disappeared Detainees to replace the term "reparation" by "compensation".

17. He said that it was necessary to ensure individual reparation for any victim of a violation of the right to liberty. In order to ensure genuine reparation, he suggested extending the right to reparation to the

beneficiaries - children and forebears - of the immediate victim. He also stressed the need to disseminate national and international standards concerning reparation among the general public, individuals, victims and their legal counsel through State information and educational measures. In matters of justice, victims were entitled to a case-by-case assessment.

18. Mr. Chernichenko stated that since the term "emotional distress" had a wide and vague meaning, it could not be directly linked to violations of human rights and therefore it could be deleted from draft article 9. He also proposed replacing the word "reprisals" by the word "persecutions".

19. Ms. Gwanmesia was of the opinion that the term "emotional distress" should be retained, because a person could suffer emotionally during detention. She referred to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 1 of which stated that the term "torture" meant any act by which severe pain or suffering, whether physical or mental, was intentionally inflicted on a person. She considered that even such a measure as solitary confinement, especially when a person was kept incommunicado, could cause emotional distress and loss of reason. Therefore, such a person should be eligible for "reasonable medical and other expenses of rehabilitation" as were rightly provided for in draft article 9 (e). The Government must use medical means to rehabilitate the victim. In her view, victims of human rights violations could be both individuals and groups of persons.

20. Ms. Gwanmesia further stated that remedies should be extended to include rehabilitation in accordance with a court decision. Although different words were used in different international instruments for the classification of remedies, they were all corollaries of the word "remedy". For example, the first Optional Protocol to the International Covenant on Civil and Political Rights permitted the Human Rights Committee to recommend that a State party grant the victim compensation or remedy. Under the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination could make a similar recommendation. The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment stated that all victims should obtain redress and had an enforceable right to fair and adequate compensation, and the Constitution of the International Labour Organization allowed the Commission of Inquiry to deem that "reparations" were appropriate. Therefore, it would be cumbersome to subdivide the remedies beyond the subtitles of compensation, restitution and rehabilitation; if that were done, the subheadings would overlap. For example, in draft article 11, subparagraphs (a) (cessation) and (d) (apology and public acknowledgement) overlapped with subparagraph (f) (commemoration).

21. She pointed out that compensation was usually awarded in money or in kind where the previous status quo could no longer be restored. But where the right could be reinstated, restitution was sufficient. Further, the remedy applied depended on the nature of the violation committed (i.e criminal, civil or administrative). Accordingly, the term "remedy" should be restricted to "compensation, restitution and rehabilitation".

22. On the basis of a suggestion made by Ms. Gwanmesia, the working group recommended that the title of agenda item 10 of the forty-seventh session of the Sub-Commission be amended in English to read "The administration of justice and remedies to victims of human rights violation and fundamental freedoms". It was also recommended that the working group could be entitled "The working group on the administration of justice and remedies for victims of gross violations". The term "remedy" appeared in most international, regional and national instruments, which required the victim to be compensated.

23. Mr. Joinet said that, in view of the important sematic issues raised by the legal terms used in the section "Forms of reparations", those terms should be re-examined in the various United Nations languages. With respect to draft article 9, he suggested that (a) and (b) should be merged so that (a) would read: "Physical, psychological or mental harm". Pain and suffering were in fact included in the concept of mental harm, whereas emotional stress was closer to psychological harm.

24. Regarding draft article 11, he considered that the term "satisfaction" and the expression "guarantees of non-repetition" covered different aspects. He was also in favour of a specific provision on rehabilitation encompassing inter alia the points concerning commemorations, acceptance of responsibility and apology. He stressed how important it was for victims for there to be commemorations, as had been held in Chile, and apologies, like the recent acknowledgement by the President of the French Republic of the responsibility of the French State in the persecution of the Jewish community with a view to its extermination during the Second World War.

25. Regarding Mr. Guissé's comment on individual reparation, he pointed out that a person who, after criminal proceedings, was found to be not guilty could not be considered to be entitled to reparation for human rights violations if all the safeguards guaranteeing the right to a fair trial had been respected.

26. Mr. Zhong Shukong expressed the opinion that the scope of "reparations" found in draft articles 2 to 5 of the principles was far too wide and that the reparation dealt with in draft article 8 should be provided in accordance with the law of the State concerned. In addition, State responsibility should be considered in a different light from the deliberations of the International Law Commission and, in particular, from its draft articles on State responsibility for "internationally wrongful acts". The issue of impunity of perpetrators of violations of human rights should be included in the principles.

27. Mr. Zhong was also of the opinion that the purpose of the principles was to remove, to the extent possible, the causes of human rights violations and redress such violations. The principles, concepts and terms should be consistent with existing international instruments. He suggested that draft articles 9 and 11 should be more general, because it was not possible to list exhaustively all violations, satisfactions and guarantees of non-repetition. He also proposed that the proposed basic principles and guidelines as revised by Mr. van Boven should be sent to Member States for comments and urged

Governments to cooperate in that respect in order to enable the Sub-Commission to benefit from their inputs at its next session. The working group recommended that the Sub-Commission should take action on that matter.

28. The representative of the Latin American Federation of Associations of Relatives of Disappeared Detainees commented that reparation was not the same as financial compensation, which was only one aspect of reparation. Other important forms were rehabilitation and restitution. It was pointed out that in the proposed draft there was no reference to the fact that the forms of reparation provided for in articles 8 to 11 were often supplementary or complementary and the application of one form of reparation did not exclude the application of others.

29. The representative of the International Commission of Jurists, referring to Ms. Ferrero Ucros' statement, proposed that the relevant aspects of the Inter-American system should be borne in mind in the further elaboration and revision of the proposed basic principles. Concerning different forms of reparation, he pointed out as an example that in the case of reparations in Aloeboetoe versus Suriname, the State had admitted killings in a village. The Inter-American Court had decided in that case that a medical clinic and a school should be opened by the State for the community where the killings took place.

30. Summing up the debate, Mr. van Boven considered that the most efficient way to proceed would be to put aside for later consideration the question of the title of the basic principles and guidelines. He expressed, however, a strong preference for using the expression "the right to reparation" in the title, because that expression reflected most comprehensively and adequately the full scope of the subject-matter. He also felt that the headings of articles 8 to 11 should be retained, despite the fact that the list of all forms of reparation was not exhaustive. Those forms should be considered as interrelated and complementary. He agreed as to the usefulness of the Inter-American system in the field and gave examples of how he had described it in his study. He would continue to make use of the relevant Inter-American case-law while revising his draft. He would also review the terminology and its proper place in the draft in the light of the discussion which had taken place in the group. In particular, he would consider the use of the term "rehabilitation" in the sense of "restoration of rights" as Mr. Guissé and Mr. Joinet had proposed. He would consider the question of combining some subparagraphs of draft article 9. He would also see whether it was possible to consolidate some elements of draft article 11 on "satisfaction and guarantees of non-repetition".

31. As to the question of responsibility, Mr. van Boven said that he had based his study mainly on the concept of State responsibility. Nevertheless, it might be possible to emphasize individual responsibility, especially in terms of punitive damages, which might require further study. However, there were possibilities and ways of bringing an individual to justice on the basis of his or her criminal responsibility as was envisaged in the establishment of the International Tribunal on the Former Yugoslavia by the Security Council in its resolution 827 (1993). He therefore agreed that the issue of individual responsibility required further consideration.

32. Referring to a number of remarks relating to his study, Mr. van Boven stated that he was unable to revise his study unless the Sub-Commission requested him to do so. However, he would take those remarks into consideration, as well as suggestions and recommendations concerning the proposed basic principles and guidelines when he revised them. He supported the idea of sending the revised proposed basic principles and guidelines to Member States for their comments.

33. Supporting Mr. Joinet's proposal, the working group recommended that the Sub-Commission should request Mr. van Boven to prepare a revised version of the proposed basic principles and guidelines and to submit it before the next session of the Sub-Commission.

II. FOLLOW-UP MEASURES TO THE DECLARATION ON THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE

34. Mr. Joinet introduced his working paper, prepared at the request of the working group at its previous session (E/CN.4/Sub.2/1995/WG.1/CRP.1), on follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance, drawing attention to the interest shown in the subject by the various United Nations forums. He referred in particular to the Vienna Declaration and Programme of Action and to the work of the Working Group on Enforced or Involuntary Disappearances, which had noted that "in the time that has elapsed since the Declaration was adopted the application of its main provisions has run into serious difficulties in most of the States concerned". In addition, the General Assembly and the Commission on Human Rights had invited all Governments to take appropriate legislative and other measures to prevent and punish the practice of enforced disappearance. He further stressed the importance of follow-up to the Declaration and of the recent adoption of the Inter-American Convention on Forced Disappearance of Persons.

35. Mr. Joinet proposed that the working group, at its next session, should:

Keep him informed, firstly, of the status report prepared by the Working Group on Enforced or Involuntary Disappearances concerning the measures taken by Governments to give effect to the Declaration and, secondly, on the basis of paragraph 10 of General Assembly resolution 49/193 of 23 December 1994, of the action taken by non-governmental organizations to encourage the implementation of the Declaration, facilitate its dissemination and contribute to the work of the Sub-Commission in that field;

Submit at the next session a preliminary draft "international convention on the prevention and punishment of enforced disappearances"; a meeting of experts to prepare a working paper on the subject should be organized to that effect, under the auspices of the Centre for Human Rights, in accordance with paragraph 10 of General Assembly resolution 49/193.

36. The representative of Amnesty International indicated that there was a clear belief in the international community that protection against enforced disappearances would be guaranteed if a convention were elaborated. In that connection it was pointed out that in its latest report (E/CN.4/1995/36),

the Working Group on Enforced or Involuntary Disappearances had urged Member States to implement the Declaration on the Protection of All Persons from Enforced Disappearance and had suggested that effective machinery be developed for its implementation. A convention would assist in achieving that goal.

37. The representatives of the International Commission of Jurists and the Latin American Federation of Associations of Relatives of Disappeared Detainees supported the initiative put forward by Mr. Joinet and suggested that the working group recommend that the Sub-Commission draft a convention against enforced disappearance.

III. HABEAS CORPUS AS A NON-DEROGABLE RIGHT AND AS ONE OF THE REQUIREMENTS FOR THE RIGHT TO A FAIR TRIAL

38. The representative of the Centre for Human Rights drew the working group's attention to the report of the meeting of experts on rights not subject to derogation during states of emergency and exceptional circumstances (E/CN.4/Sub.2/1995/20, annex I), held in Geneva from 17 to 19 May 1995 under the auspices of the Centre for Human Rights. The meeting addressed the question of the advisability of expanding the list of non-derogable rights as reflected in the report.

39. On a proposal by Mr. Joinet, the working group decided to request Mr. Despouy, Special Rapporteur on human rights and states of emergency, to prepare a working paper on the subject so that the working group could examine it in depth at its next session.

IV. ISSUES RELATED TO THE DEPRIVATION OF THE RIGHT TO LIFE, WITH SPECIAL REFERENCE TO: (a) IMPOSITION OF THE DEATH PENALTY ON PERSONS OF LESS THAN 18 YEARS OF AGE AND ON THE MENTALLY AND PHYSICALLY DISABLED; (b) QUESTIONS RELATING TO SUMMARY, ARBITRARY AND EXTRAJUDICIAL EXECUTIONS

40. The representative of the Centre for Human Rights drew the working group's attention to the report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (E/1995/78 and Add.1). He also informed the group that, under agenda item 4 and at the request of the working group, the Secretariat had prepared a document (E/CN.4/Sub.2/1995/WG.1/CRP.2) on the handling of capital punishment communications by United Nations human rights treaty bodies.

41. Under sub-item (a), Mr. Guissé noted that there was an increasing number of States that could be described as "de facto abolitionists" but that at the same time other States were reintroducing the death penalty or expanding its scope of application, in particular to cover political offences. In that connection, 1995 had seen the largest number of executions. That situation should prompt the working group to request States to keep it more fully informed, to respect the safeguards guaranteeing the protection of the rights of persons facing the death penalty and to apply alternative sentences.

He announced his willingness to approach Amnesty International with a view to preparing a single, comprehensive document every year reviewing States' position on the death penalty.

42. On the subject of sub-item (b), he deplored the recourse to summary, arbitrary and extrajudicial executions, especially by States with abolitionist legislation, and concluded that it was necessary to combat all violations of the right to life, not only de jure but also de facto.

43. The working group recommended that that item should remain on the provisional agenda of the following session. Special attention should also be given to the question of the imposition of the death penalty on minors and on the mentally and physically disabled. The work of the human rights bodies, including the Human Rights Committee and the Committee against Torture, should be examined more closely in that regard. The members of the working group invited Mr. Guissé to draft a paper on the deprivation of the right to life.

V. JUVENILE JUSTICE

44. The representative of the Centre for Human Rights drew the working group's attention to the report of the expert group meeting on children and juveniles in detention: application of human rights standards (E/CN.4/1995/100), held in Vienna from 30 October to 4 November 1994. In its resolution 1995/41, the Commission on Human Rights, at its fifty-first session, took note with appreciation of the experts' recommendations and invited Governments to provide training in human rights and juvenile justice to all judges, lawyers, prosecutors, social workers and other professionals concerned with juvenile justice, including police and immigration officers. A note by the Secretary-General on the situation of children deprived of their liberty (E/CN.4/Sub.2/1995/30 and Add.1) was also submitted to the working group for consultation.

45. Mr. Guissé pointed out that the concept of juvenile justice concerned not only judicial bodies but also social workers, police departments such as juvenile units and services responsible for the execution of punishment whose object should be to protect and rehabilitate juveniles. He stressed the crucial importance of adopting measures to ensure that juvenile delinquents did not turn to serious crime. He also wished to see the question of young migrant workers deprived of their liberty duly taken into account.

46. Ms. Gwanmesia, emphasized the importance of juvenile justice in particular, because of the frailness of minors, and stated that the subject should not be ignored. If minors are detained with adults and tried by courts of first instance, then all efforts to ensure that minors are not traumatized will be lost. This item should be given profound consideration; a study which would contain recommendations could be undertaken on the question of juvenile justice system.

47. In response to that suggestion, Mr. Joinet, pointing out that a large number of initiatives had already been taken by the Sub-Commission in the field of juvenile justice, recalled the report on the application of international standards concerning the human rights of detained juveniles prepared by Mrs. M. Concepción Bautista. He also referred to the report of

the expert group meeting on children and juveniles in detention: application of human rights standards (E/CN.4/1995/100), held in Vienna from 30 October to 4 November 1994. He further stressed that several United Nations bodies, including the Commission on Human Rights, the Sub-Commission and the Committee on the Rights of the Child, had expressed their serious concern about the situation of children deprived of their liberty.

48. While appreciating the interest rightly shown in the subject by some members of the working group, Mr. Joinet was of the opinion that, given the numerous initiatives taken in that area by the Sub-Commission as reported by the Secretariat, the Sub-Commission had amply fulfilled its mandate and that that item could consequently be removed from the agenda to make way for a new item.

49. In order to ensure that an informed decision could be taken on the matter, Mr. Joinet requested the Secretariat to prepare an information note for the following year, recapitulating the reports, studies and other documents submitted by United Nations bodies since Mrs. Concepción Bautista's final report.

VI. MATTERS ARISING FROM THE 1994 REPORT OF THE WORKING GROUP

50. The working group decided to amend the wording of the agenda item as follows: "Measures to be taken to give full effect to the Convention on the Prevention and Punishment of the Crime of Genocide" and to consider it at its next session.

VII. PROVISIONAL AGENDA FOR THE NEXT SESSION

51. At its 2nd meeting, the working group adopted the following provisional agenda for its next session:

1. Election of officers.

2. Adoption of the agenda.

3. Follow-up measures to the Declaration on the Protection of All Persons from Enforced Disappearance.

4. Habeas corpus as a non-derogable right [and as one of the requirements for the right to a fair trial].

5. Guiding principles concerning the right to reparation for victims of gross violations of human rights and fundamental freedoms:

   (a) General principles;

   (b) Forms of reparation;

   (c) Procedures and mechanisms.

6. Issues related to the deprivation of the right to life, with special reference to:

(a) Imposition of the death penalty on persons of less than 18 years of age and on the mentally and physically disabled;

(b) Summary, arbitrary and extrajudicial executions.

7. Advisability of maintaining the item on juvenile justice.

8. Measures to be taken to give full effect to the Convention on the Prevention and Punishment of the Crime of Genocide.

9. Provisional agenda for the next session.

10. Adoption of the report of the working group to the Sub-Commission.

VIII. ADOPTION OF THE REPORT OF THE WORKING GROUP TO THE SUB-COMMISSION

52. At its 3rd meeting on 10 August 1995, the working group unanimously adopted the present report to the Sub-Commission.